



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**May 4, 2005**

**SUBJECT:**           **2005-0233** – Application on a 5,914 square-foot site located at **838 San Rafael Street** (near Ahwanee Ave) in an R-0 (Low-Density Residential) Zoning District.

Motion               Use Permit to allow a six-foot and eight-inch high side yard fence without a signed neighbor agreement.

**REPORT IN BRIEF**

**Existing Site Conditions**       Existing single family home with fences along side and rear yards.

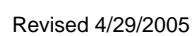
**Surrounding Land Uses**

North	Highway 101
South	Single Family Residential
East	Single Family Residential
West	Single Family Residential

**Issues**               Design Review for Fence

**Environmental Status**       A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines

**Staff Recommendation**       Approve with conditions



**PROJECT DATA TABLE**

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
<b>General Plan</b>	Residential Low Density	Same	---
<b>Zoning District</b>	R-O	Same	---
<b>Lot Size (s.f.)</b>	5,914	Same	6,000 min.
<b>Gross Floor Area (s.f.)</b>	1,566	Same	No limit
<b>Lot Coverage (%)</b>	26.3 %	Same	45 % max.
<b>Floor Area Ratio (FAR)</b>	26.3 %	Same	45 % w/o PC approval
<b>No. of Buildings On-Site</b>	1	Same	---
<b>Setbacks (facing prop.)</b>			
• <b>Front (ft.)</b>	30	Same	20 min.
• <b>Left Side (ft.)</b>	10	Same	4 min. (12 total min.)
• <b>Right Side (ft.)</b>	5	Same	4 min. (12 total min.)
• <b>Rear (ft.)</b>	25	Same	20 min.

**ANALYSIS****Description of Proposed Project**

The applicant has previously installed an extension of approximately 8 inches to an existing fence. The extension increased the height of the fence above six feet and is therefore required to have a planning permit approved for the fence. The Neighborhood Preservation Division responded to a complaint and initiated the permit process with the applicant for the currently installed side yard fence extension. The Sunnyvale Municipal Code requires that fences between six and seven feet in height obtain the approval of the abutting neighbor through a neighbor agreement form submitted with the application for a staff reviewed permit or to have the design evaluated through a public hearing if no agreement is provided. The abutting neighbor did not sign the neighbor agreement and as such this Use Permit is required for review of the design. The applicant has erected the fence extension to provide for additional privacy from the southerly neighbor and to prevent leaves from blowing between the properties.

**Background**

There are no previous planning permits related to the site.

**Environmental Review**

A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 Categorical Exemptions include minor structures such as fences.

**Use Permit**

**Site Layout:** The site is a corner lot with the front of the home facing San Rafael Street. The subject fence is located in the side yard of the home along the south side of the property abutting a neighbor's property.

**Design:** The proposed fence has been erected by adding additional vertical boards to previously existing fence. The previous fence was in a state of disrepair prior to the extension and in addition to the extension braces and replacement boards were also constructed. The current fence is now a hodgepodge collection of materials and styles. The extension varies from the previous design by having a coat of white paint, no decorative cap or distinguishable finish, and nails that protrude through the old fence (see Attachments C).

**Compliance with Development Standards:** If the Use Permit is approved it would comply with zoning code standards and would require building permits for construction. However, due to the state of disrepair of the previous fence it is unclear whether a building permit will be able to be obtained for current fence as constructed and may require a completely new fence to meet structural integrity requirements of the building code.

**Expected Impact on the Surroundings:**

The impact on the surroundings is focused on the neighbor to south rather than the neighborhood. The height of the fence would not have a direct impact on the neighborhood due to the variety of heights and fence types in the neighborhood and that the fence is viewable principally only between the two neighboring homes. The primary impact to the southerly neighbor would be visual impacts due to disjointed installation and change of materials from that of the existing fence. Staff also has concerns pertaining to the stability of the existing fence with the extension and the safety and compatibility of having nails protrude through the fence exposing sharp edges to the neighbors rear yard.

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**Public Contact**

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The application was originally noticed by mail for the April 27, 2005 Hearing Date, but due to an error in publishing the notice in *The Sun*, the hearing was rescheduled for May 4, 2005. The southerly neighbor also has submitted photos of the existing condition and previous condition of the fence.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"><li>Published in the <i>Sun</i> newspaper</li><li>5 notices mailed to adjacent property owners and residents of the project site</li></ul>	<ul style="list-style-type: none"><li>Posted on the City of Sunnyvale's Website</li><li>Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>Posted on the City's official notice bulletin board</li><li>City of Sunnyvale's Website</li><li>Recorded for SunDial</li></ul>

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**Conclusion**

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The proposed fence height is compatible with the surroundings and meets the goal of the applicant of providing additional privacy between two neighbors. However, the design of the fence is incompatible due to the material choices and detailing, or lack there of, in addition to the hazard of the protruding nails. Staff has included conditions of approval to revise the design to support recommending approval of the project.

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Use Permit . Findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

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**Alternatives**

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1. Approve the Use Permit with modifications as recommended by staff.
2. Approve the Use Permit with other modifications than recommended by staff.
3. Deny the Use Permit.

**Recommendation**

Recommend Alternative 1

Prepared by:

Kelly Diekmann  
Project Planner

Reviewed by:

Diana O'Dell  
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans (includes photo)

**Recommended Findings - Use Permit**

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Single Family Design Techniques 3.11.G ...*Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged....However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top. Chain link fencing is strongly discouraged.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project will meet the Single Family Home Design Techniques by implementing the conditions of approval to provide an appropriate cap or finish to the extension and will provide for privacy while maintaining a compatible design for its varying height.
2. The proposed use is desirable to provide privacy for the applicant, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the modified fencing design is compatible with the existing fencing on the site and neighborhood and is an appropriate residential design and height for single family residential.

**Recommended Conditions of Approval - Use Permit**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. The two-year expiration date of the Use Permit shall be measured from the date of the approval by the final review authority if the permit is not exercised.
2. The fence extension design shall be modified to include an appropriate decorative cap to the board extension that is compatible with the existing fence design. The top extension of boards may require additional horizontal boards be placed along the edge facing the south to provide adequate compatibility. Final design is to be approved by the Director of Community Development. If the board extension is to be painted a completed solid coating of paint shall be performed.
3. In the alternative that a new fence is to be constructed rather than modify the existing fence, a new fence may be constructed with up to six feet of board on board design and with up to an additional one-foot of decorative woodwork, may include lattice or decorative cap, for a total height not to exceed seven feet at any one point.
4. Protruding nails are not permitted and are to be removed or cut off.
5. The applicant shall either remove the extension within 30 days or submit a revised design for a building permit within 30 days. Once a building permit is issued the applicant shall complete the required work and receive final inspection within 21 days of building permit issuance. If these timeline are not met the fence will be considered in violation of this Use Permit.



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